

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 17261 of 2004

Between:

G.Narsimlu, S/o.Narsaiah,
R/o.H.No.6-68/1, Dayarguda, Kukatpally,
Hyderabad.

... PETITIONER

AND

- 1 The Sherilingampally Municipality, rep.by it's
Commissioner,
Sherilingampally, RR Dist.
- 2 The Town planning Surveyor (TPS) Sri Hari,
Sherilingampally
Municipality, RR Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction more particularly one in the nature of writ mandamus or any other appropriate writ declaring the action of the respondent authorities in demolishing the structure in the land of the petitioners in an extent of 266.66 square yards in Sy.No.196B and 197 A (Municipal premises No.1-54/1/54) of Madeenaguda village of Sherilingampally Mandal, RR District as arbitrary, illegal, null and void consequently award compensation of Rs.1,00,000/- in favour of the petitioner by directing the respondents to pay the same and further direct the respondent authorities not interfere with the peaceful possession and enjoyment of the petitioners land in an extent of 266.66 square yards in Sy.No.196 B and 197 A (Municipal premises No.1-54/1/54) of Madeenaguda village of Sherilingampally Mandal, RR District.

Counsel for the Petitioner: MR.K.VENUMADHAV

Counsel for the Respondents: MR.R.TIMMA REDDY

The Court at the admission stage made the following:

ORDER:

Petitioner claiming to be the owner of property admeasuring 266.66 square yards in Sy.No.196B and 197 A of Madinaguda Village, Sherilingampally Mandal, Ranga Reddy District, purchased the same through a registered Sale Deed vide document No.7160 of 1989 dated 19-06-1989. After such purchase, petitioner constructed compound wall and tin shed to protect his land. When some third parties tried to interfere with his possession, he filed O.S.No.256 of 2004 on the file of the Principal Junior Civil Judge (W & S), Ranga Reddy District for perpetual injunction and obtained temporary injunction against the defendants therein, apart from obtaining police protection for implementing the same. While so, it is alleged the officials of the respondent-municipality demolished the compound wall and room erected by the petitioner, without following due procedure and without any notice. In view of the same, petitioner preferred the present writ petition for compensation of Rs.1,00,000/- (Rupees One Lakh only) for such illegal demolition and direction not to

interfere with the possession of the petitioner.

2. If such demolition is effected by the municipal authorities, proper remedy available for the petitioner is to serve notice against the municipality and file a civil suit for claiming damages which can be ascertained by the competent Civil Court basing upon the pleadings and evidence adduced by the parties. In absence of necessary pleadings and evidence, such compensation cannot be ascertained by this Court in a summary manner under Article 226 of the Constitution of India.

The Writ Petition is accordingly dismissed. No costs. However, Liberty is granted to the petitioner to move the competent Civil Court for the damages, if any, caused to him by the alleged illegal act of the respondent-municipality. It is needless to observe that unless necessary notice as contemplated under the A.P. Municipalities Act, 1965 is issued to the petitioner; petitioner cannot be dispossessed from the property, which is purchased under a registered Sale Deed.

A. GOPAL REDDY, J

September 24, 2004

N.B. *Furnish copy in three days*

(B/o)

MRR

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To:

- 1 The Commissioner, Sherilingampally Municipality,
Sherilingampally, RR Dist.
- 2 The Town planning Surveyor (TPS) Sri Hari, Sherilingampally
Municipality, R.R Dist.
- 3 Two C.D. Copies.